

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

LEVENSKI CROSSTY,

Petitioner,

v.

WARDEN, ROSS
CORRECTIONAL INSTITUTION,

Respondent.

Case No. 1:19-cv-13
JUDGE DOUGLAS R. COLE
Magistrate Judge Bowman

ORDER

On May 19, 2020, Magistrate Judge Bowman issued a Report and Recommendation (the “R&R”) (Doc. 10), which found that Petitioner Levenski Crossty is not entitled to habeas relief based on the non-cognizable state law claims that he raised in Grounds Two and Three in his Petition (Doc. 1). Moreover, Magistrate Judge Bowman concluded that Crossty procedurally defaulted and has waived his grounds for relief by failing to present his claims to the Ohio Supreme Court. (Doc. 10). Accordingly, Magistrate Judge Bowman recommended this Court deny with prejudice Crossty’s Petition. The R&R then advised the Parties that a failure to object within the 14 days specified by the R&R may result in forfeiture of rights on appeal, which includes the right to District Court review. (*See* Doc. 10, #876 (first citing *Thomas v. Arn*, 474 U.S. 140, 149–53 (1985); then *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981)).

Now, the time period for objection has run, and no party has objected. 28 U.S.C. § 636(b)(1)(C). “There is no indication that Congress, in enacting § 636(b)(1)(C),

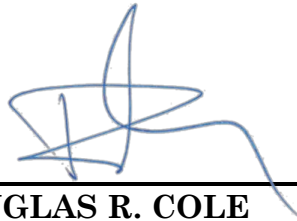
intended to require a district judge to review a magistrate's report to which no objections are filed." *Thomas*, 474 U.S. at 152; *see also Berkshire v. Beauvais*, 928 F.3d 520, 530–31 (6th Cir. 2019) (noting "*fail[ure] to file* an objection to the magistrate judge's R&R ... is forfeiture, not waiver") (emphasis in original).

Thus, the Court **ADOPTS** and **AFFIRMS** Magistrate Judge Bowman's R&R (Doc. 10), **DENIES WITH PREJUDICE** Crossty's Petition for Writ of Habeas Corpus (Doc. 1), and **DIRECTS** the Clerk to enter judgment accordingly. Moreover, as Magistrate Judge Bowman further recommended, the Court **DENIES** Crossty a certificate of appealability with respect to any claims Crossty alleges in his Petition as Magistrate Judge Bowman found that "jurists of reason" would not find it debatable whether the Court is correct in its procedural ruling. Finally, the Court **CERTIFIES** that an appeal of this Order would not be taken in good faith, and thus, **DENIES** Crossty leave to appeal *in forma pauperis* upon a showing of financial necessity.

SO ORDERED.

June 18, 2020

DATE



DOUGLAS R. COLE

UNITED STATES DISTRICT JUDGE